

## REMARKS

Claims 1-10, 12, 15, 17, 19, 20, 27-30 are currently amended. New claims 31-35 are added for consideration.

It is respectfully submitted that the present amendments present no new matter and place this case in condition for allowance. Reconsideration of the application in view of the above amendments and the following remarks is requested.

### I. The Rejections under 35 U.S.C. 102 and 103

Claims 1-20 and 27-30 stand rejected under 35 U.S.C. 102(b) as being anticipated by or obvious under 35 U.S.C. 103(a) by Guraya. (U.S. Patent No. 6,737,099 herein after referred to simply as "Guraya I"). However, Guraya I does not disclose or suggest the substantially un-agglomerated particulate starting material recited in the claims as amended herein.

Guraya relates to slurries of amylaceous flour from milled seed of cereals, beans, and legumes containing dispersed particles of starch-protein agglomerates that are subjected to high pressure processing to obtain deagglomerated starch granules and protein.

The present disclosure relates to a method for preparing a particulate composition having improved average strength of particles. The method contacts substantially un-agglomerated particulate starting material with a liquid to form a mixture. The mixture is subjected to high shear at a rate wherein more than 80% of the particles in the starting material remain un-agglomerated.

Claim 1 as amended, requires, *inter alia*, substantially un-agglomerated particulate starting material. In other words, the starting material of the present disclosure does not need to be de-agglomerated prior to processing. Nowhere does Guraya describe such a process. Guraya I describes agglomerated starting materials that must be deagglomerated. See for example, Col. 3, lines 27-37 which describes obtaining deagglomerated materials from agglomerated materials. Accordingly, Guraya I fails to describe a substantially unagglomerated starting material, Guraya I does not anticipate independent claim 1, or claims which depends upon claim 1.

Further, to anticipate, the identical subject matter must not only be previously known, but the knowledge must be sufficiently enabling to place the information in the possession of the public. Guraya I is deficient as a reference as it fails to apply a substantially un-agglomerated particulate starting material to high shear. Accordingly, the public was not in possession of the claimed invention, or the knowledge that applying a substantially un-agglomerated particulate starting material to high shear improves the average strength of particles. Accordingly, Guraya I does not anticipate claim 1 as amended herein. Reconsideration is urged.

In order to be obvious, the prior art reference (or references when combined) must teach or suggest all the claim limitations. As described above, Guraya I fails to describe a substantially un-agglomerated particulate starting material. Accordingly, Guraya I does not make amended claim 1, and the claims which depend therefrom obvious. Reconsideration is urged.

Further, as Guraya I relates to starting materials in need of deagglomeration, the reference does not provide a reason to provide one of skill in the art to subject with a reason to substitute agglomerated starting materials such as those of Guraya I with substantially unagglomerated starting materials of the claimed invention. Accordingly, Claim 1, and all claims which depend therefrom are not obvious.

Claims 1-20 and 27-30 stand rejected under 35 U.S.C. 102(a) as being anticipated by or obvious under 35 U.S.C. 103(a) by Guraya. (WO 02/078457 herein after referred to simply as "Guraya II"). However, Guraya II does not disclose or suggest the substantially un-agglomerated particulate starting material recited in the claims as amended herein.

As the Examiner's basis for this objection is otherwise the same as the rejection for Guraya I, the Applicants incorporate herein by reference in its entirety the response above relating to Guraya I. Applicants' disclosure is not anticipated or made obvious by Guraya II for the same reasons stated above with respect to Guraya I, and reconsideration is urged.

Claims 1-4, 10, 13-16, 19-20 and 27-30 stand rejected as obvious under 35 U.S.C. 103(a) by Kodokian (US Patent No. 5,928,577 herein after referred to simply as "Kodokian"). However, Kodokian does not disclose or suggest the substantially un-agglomerated particulate starting material recited in claim 1 as amended herein.

Kodokian relates to spherical particles of a copolymer composition including a crosslinker and/or coating additive(s) the particles being useful for coating various substrates; and a process for making such particles including forming the copolymer and unreacted crosslinker and/or other additives in a coating matrix.

Nowhere does Kodokian suggest applying a substantially un-agglomerated particulate starting material to high shear in order to obtain improved average strength of particles. Accordingly, Kodokian does not make the claimed invention obvious.

## **II. Conclusion**

In view of the above, it is respectfully submitted that all claims are in condition for allowance. Early action to that end is respectfully requested. The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this amendment or application.

Respectfully submitted,

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